THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.20511 of 2005

Date:12.09.2005

Between:

V.B. Reddy

… Petitioner

AND

The Depot Manager, APSRTC,

Nalgonda Bus Depot,

Nalgonda District.

… Respondent

ORDER:

The petitioner is employed as a driver in APSRTC. The petitioner was issued a charge sheet, dated 26.08.2002, alleging that he drove the bus from Nalgonda to Suryapet in rash and negligent manner, resulting in death of a person viz., Sk.Musthafa, and directing him to explain as to why necessary disciplinary action shall not be taken against him for the lapse on his part. He submitted his explanation on 12.09.2002. Thereafter, a show cause notice, dated 23.01.2003, was issued to the petitioner to explain as to why proposed recovery should not be imposed on him, to which he submitted his explanation on 15.03.2003. On consideration of the said explanation, the respondent passed an order, dated 29.04.2003, imposing penalty of stoppage of annual increment for a period of two years and further directed that it shall have the cumulative effect on future increments. The petitioner challenges the same.

The only point urged by Sri P. Venkateswara Rao, the learned counsel for the petitioner, is that the respondent imposed the penalty of stoppage of annual increment for a period of two years with cumulative effect without conducting departmental enquiry. He placed reliance upon the judgment of the Apex Court in ***KULWANTH SINGH GILL v. STATE OF PUNJAB*** and submits that stoppage of increment is a major penalty and it cannot be imposed, except by conducting departmental enquiry.

Sri V.T.M. Prasad, the learned Standing Counsel appearing for the respondent, on the other hand, submits that the penalty imposed against the petitioner itself is minimal, if the lapse on his part is taken into account.

It is a matter of record that the respondent imposed the penalty of stoppage of annual increment for a period of two years with cumulative effect, on the allegation that the petitioner was negligent in performing his duties. Though a charge sheet was issued to the petitioner before the penalty was imposed, no departmental enquiry was conducted. In ***KULWANTH SINGH GILL's case*** (supra), the Supreme Court held that stoppage of increments with cumulative effect is a major penalty and it cannot be imposed, except by conducting departmental enquiry. In view of the same, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs to be set aside, leaving it open to the respondent to pass fresh orders. To avoid further delay and complication in the matter, this Court is of the view that the impugned order can be treated as the one for stoppage of one increment for a period of two years.

Hence, the writ petition is partly allowed directing that the order, dated 29.04.2003, passed by the respondent shall be treated as the one for stoppage of one increment for a period of two years. However, the petitioner shall not be entitled for any monetary benefit that had accrued up to the date of this order.

There shall be no order as to costs.

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12.09.2005

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